

FITZGERALD KNAIER LLP

Kenneth M. Fitzgerald, Esq. (SBN: 142505)
 kfitzgerald@fitzgeraldknaier.com
 David M. Beckwith, Esq. (SBN: 125130)
 dbeckwith@fitzgeraldknaier.com
 Keith M. Cochran, Esq. (SBN: 254346)
 kchochran@fitzgeraldknaier.com
 402 West Broadway, Suite 1400
 San Diego, California 92101
 Tel: (619) 241-4810
 Fax: (619) 955-5318

WARREN LEX LLP

Matthew S. Warren, Esq. (SBN: 230565)
 16-463@cases.warrenlex.com
 Patrick M. Shields, Esq. (SBN: 204739)
 16-463@cases.warrenlex.com
 2261 Market Street, No. 606
 San Francisco, California 94114
 Tel: (415) 895-2940
 Fax: (415) 895-2964

Attorneys for Plaintiff and Counter Defendant
 ViaSat, Inc.

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

<p>ViaSat, Inc., <i>a Delaware corporation,</i></p> <p style="text-align: right;">Plaintiff</p> <p style="text-align: right;">and Counter Defendant,</p> <p style="text-align: center;">v.</p> <p>Acacia Communications, Inc., <i>a Delaware corporation,</i></p> <p style="text-align: right;">Defendant</p> <p style="text-align: right;">and Counter Claimant,</p>	<p>) Case No.: 3:16-cv-00463-BEN-JMA</p> <p>)</p> <p>) Declaration of Kenneth M.</p> <p>) Fitzgerald In Support Of ViaSat,</p> <p>) Inc.'s Opposition to Defendant</p> <p>) Acacia Communications, Inc.'s</p> <p>) Motion for Summary Judgment</p> <p>) Regarding No Liability</p> <p>)</p> <p>) Date: February 26, 2018</p> <p>) Time: 10:30 a.m.</p> <p>) Place: Courtroom 5A</p> <p>) Dist. Judge: Hon. Roger T. Benitez</p>
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) Hon. Magistrate Jan M. Adler
) Case Initiated: January 21, 2016

1 I, Kenneth M. Fitzgerald, declare as follows:

2 1. I am an attorney at Fitzgerald Knaier LLP, counsel for plaintiff and
3 counter defendant ViaSat, Inc. I am licensed to practice law in the State of
4 California and admitted to this Court. I have personal knowledge of the facts set
5 forth in this declaration, to which I could and would testify competently if called
6 upon to do so.

7 2. Attached hereto as Exhibit 1 is a true and correct copy of Deposition
8 Exhibit 501, the License Agreement at issue in this action.

9 3. Attached hereto as Exhibits 2-4 are true and correct copies of
10 correspondence between ViaSat's Associate General Counsel Erik Bliss and Acacia's
11 Vice President Bhupen Shah and General Counsel Janene Asgeirsson.

12 4. Attached hereto as Exhibits 5 through 16 are true and correct excerpts
13 from the deposition transcripts of the following witnesses, with the relevant
14 testimony marked in brackets:

- 15 • 5–Gary Martin, Ph.D. (30(b)(6) designee of Acacia)
- 16 • 6– Pierre Humblet, Ph.D.
- 17 • 7– Peter Monsen
- 18 • 8– Christian Rasmussen, Ph.D.
- 19 • 9– Benny Mikkelsen, Ph.D.
- 20 • 10– Lawrence Pellach
- 21 • 11– Bhupen Shah (30(b)(6) designee of Acacia)
- 22 • 12– Russell Fuerst, Ph.D.
- 23 • 13– Richard Koralek, Ph.D.
- 24 • 14– Alexander Vardy, Ph.D.
- 25 • 15– Krishna Narayanan, Ph.D.
- 26 • 16– Marwan Hassoun, Ph.D.

27 5. Attached hereto as Exhibit 17 is a true and correct copy of the opening
28 expert report of ViaSat's retained technical expert Krishna Narayanan, Ph.D.

1 6. Attached hereto as Exhibit 18 is a true and correct copy of the opening
2 expert report of Acacia's retained technical expert Alexander Vardy, Ph.D.

3 7. Attached hereto as Exhibit 19 is a true and correct copy of the opening
4 expert report of ViaSat's retained source code expert Marwan Hassoun, Ph.D.

5 8. Attached hereto as Exhibit 20 is a true and correct copy of the Expert
6 Report of ViaSat's retained expert Stephen Prowse, Ph.D.

7 9. Attached hereto as Exhibit 21 is a true and correct copy of ViaSat's
8 Amended Trade Secret Identification, which we served on Acacia's counsel in this
9 case.

10 10. Attached hereto as Exhibit 22 is a true and correct copy of Acacia
11 Communications, Inc.'s Supplemental Responses to ViaSat, Inc.'s Requests for
12 Admission (Set One).

13 11. Attached hereto as Exhibit 23 is a true and correct copy of Deposition
14 Exhibit 212 (bates-numbered VIASAT032870), which was produced by ViaSat in
15 this litigation.

16 12. Attached as Exhibits 24 through 39 are true and correct highlighted
17 copies of documents produced in discovery by counsel for Acacia. The documents
18 all bear the Bates numbers used by Acacia to designate its documents, beginning
19 with the prefix "ACI," and all were marked by Acacia as "Highly Confidential –
20 Attorneys' Eyes Only" under the terms of the Stipulated Protective Order in this
21 action. Many of these documents were marked and used as deposition exhibits in
22 the depositions of Acacia's witnesses. Where the exhibits were used as deposition
23 exhibits, the deposition exhibit numbers are reflected in the numbered exhibit stamp
24 on the first page of each exhibit, and indicated in the Index of Exhibits
25 accompanying this opposition. We have highlighted certain language from these
26 exhibits where that language is relevant to the assertions in our opposition.

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1 I declare under penalty of perjury under the laws of the United States of
2 America that the foregoing is true and correct. Executed this 12th day of February
3 2018 in San Diego, California.

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5 s/ *Kenneth M. Fitzgerald*

6 Kenneth M. Fitzgerald
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CERTIFICATE OF SERVICE

I certify that today I am causing to be served the foregoing document by CM/ECF notice of electronic filing upon the parties and counsel registered as CM/ECF Users. I further certify that, to the extent they are not registered CM/ECF Users, I am causing the foregoing document to be served by electronic means via email upon counsel for Acacia Communications, Inc., per the agreement of counsel.

Dated: February 12, 2018

s/ Kenneth M. Fitzgerald

Kenneth M. Fitzgerald, Esq.